

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86196858
LAW OFFICE ASSIGNED	LAW OFFICE 113
MARK SECTION (no change)	
ARGUMENT(S)	
<p>In the December 8, 2014 Office Action, the Examining Attorney made final, the refusal pursuant to Section 2(e)(1) of the Trademark Act and the requirement to amend the identification of goods. Applicant has amended the identification of goods along the lines suggested by the Examining Attorney. Specifically, Applicant has amended the identification to specify the primary components of the system and to include the non-primary goods not listed in the same class as the primary components after the wording "and also containing". Additionally, Applicant has specified the "associated controls" and indicated that the goods are all sold as a unit.</p> <p>The Examining Attorney issued a Supplemental Register Advisory with respect to the Section 2(e)(1) refusal. Applicant is assessing the feasibility of filing an Allegation of Use and resultantly amending this application to the Supplemental Register. Inasmuch as the Office Action is "final", Applicant is filing a Notice of Appeal.</p> <p>WHEREFORE, Applicant respectfully requests the Examining Attorney to accept the amended Identification of Goods and to withdraw the Section 2(e)(1) refusal.</p>	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	009
DESCRIPTION	
<p>Data center and computer room management systems comprised primarily of uninterruptible power supplies, electronic controller for controlling air conditioning and temperature, air flow sensors, software for monitoring data center and computer room infrastructure equipment, cooling system comprised primarily of air cooling apparatus, cooling evaporators, air conditioning units, electric fans, water cooling towers and associated controls, electronic fan controls, cabinets specially adapted for computer hardware equipment, racks, and containment panels for use with computer systems, and also containing curtains and doors</p>	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (proposed)	

INTERNATIONAL CLASS	009
<b>TRACKED TEXT DESCRIPTION</b>	
<p><del>Data center and computer room management systems comprised primarily of uninterruptible power supplies, electronic controller for controlling air conditioning and temperature, air flow sensors, software for monitoring data center and computer room infrastructure equipment, cooling system comprised primarily of air cooling apparatus, cooling evaporators, air conditioning units, electric fans, water cooling towers and associated controls, electronic fan controls, cabinets specially adapted for computer hardware equipment, racks, and containment panels for use with computer systems, and also containing curtains and doors;</del> <u>Data center and computer room management systems comprised primarily of uninterruptible power supplies, electronic controller for controlling air conditioning and temperature, air flow sensors, software for monitoring data center and computer room infrastructure equipment, and also containing a cooling system comprised primarily of air cooling apparatus, cooling evaporators, air conditioning units, electric fans, water cooling towers and associated electronic fan controls, air conditioning controls and power controllers, cabinets specially adapted for computer hardware equipment, and racks, curtains, doors and containment panels for use with computer systems, all sold together as a unit</u></p>	
<b>FINAL DESCRIPTION</b>	
<p>Data center and computer room management systems comprised primarily of uninterruptible power supplies, electronic controller for controlling air conditioning and temperature, air flow sensors, software for monitoring data center and computer room infrastructure equipment, and also containing a cooling system comprised primarily of air cooling apparatus, cooling evaporators, air conditioning units, electric fans, water cooling towers and associated electronic fan controls, air conditioning controls and power controllers, cabinets specially adapted for computer hardware equipment, and racks, curtains, doors and containment panels for use with computer systems, all sold together as a unit</p>	
<b>FILING BASIS</b>	Section 1(b)
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/LMD/
<b>SIGNATORY'S NAME</b>	Lisa M. DuRoss
<b>SIGNATORY'S POSITION</b>	Attorney of Record, Michigan Bar Member
<b>SIGNATORY'S PHONE NUMBER</b>	248-641-1286
<b>DATE SIGNED</b>	06/08/2015
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Mon Jun 08 13:05:35 EDT 2015
<b>TEAS STAMP</b>	USPTO/RFR-209.155.152.66-20150608130535890056-86196858-530478d407f1956bcc32f2f4d5d10e098442f8e8cd2c4

## **Request for Reconsideration after Final Action To the Commissioner for Trademarks:**

Application serial no. **86196858** has been amended as follows:

### **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

In the December 8, 2014 Office Action, the Examining Attorney made final, the refusal pursuant to Section 2(e)(1) of the Trademark Act and the requirement to amend the identification of goods. Applicant has amended the identification of goods along the lines suggested by the Examining Attorney. Specifically, Applicant has amended the identification to specify the primary components of the system and to include the non-primary goods not listed in the same class as the primary components after the wording "and also containing". Additionally, Applicant has specified the "associated controls" and indicated that the goods are all sold as a unit.

The Examining Attorney issued a Supplemental Register Advisory with respect to the Section 2(e)(1) refusal. Applicant is assessing the feasibility of filing an Allegation of Use and resultantly amending this application to the Supplemental Register. Inasmuch as the Office Action is "final", Applicant is filing a Notice of Appeal.

WHEREFORE, Applicant respectfully requests the Examining Attorney to accept the amended Identification of Goods and to withdraw the Section 2(e)(1) refusal.

### **CLASSIFICATION AND LISTING OF GOODS/SERVICES**

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 009 for Data center and computer room management systems comprised primarily of uninterruptible power supplies, electronic controller for controlling air conditioning and temperature, air flow sensors, software for monitoring data center and computer room infrastructure equipment, cooling system comprised primarily of air cooling apparatus, cooling evaporators, air conditioning units, electric fans, water cooling towers and associated controls, electronic fan controls, cabinets specially adapted for computer hardware equipment, racks, and containment panels for use with computer systems, and also containing curtains and doors

Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Proposed:**

**Tracked Text Description:** ~~Data center and computer room management systems comprised primarily of uninterruptible power supplies, electronic controller for controlling air conditioning and temperature, air flow sensors, software for monitoring data center and computer room infrastructure equipment, cooling system comprised primarily of air cooling apparatus, cooling evaporators, air conditioning units, electric fans, water cooling towers and associated controls, electronic fan controls, cabinets specially adapted for computer hardware equipment, racks, and containment panels for use with computer systems, and also containing curtains and doors;~~ Data center and computer room management systems comprised primarily of uninterruptible power supplies, electronic controller for controlling air conditioning and temperature, air flow sensors, software for monitoring data center and computer room infrastructure equipment, and also containing a cooling system comprised primarily of air cooling apparatus, cooling evaporators, air conditioning units, electric fans, water cooling towers and associated electronic fan controls, air conditioning controls and power controllers, cabinets specially adapted for computer hardware equipment, and racks, curtains, doors and containment panels for use with computer systems, all sold together as a unit

Class 009 for Data center and computer room management systems comprised primarily of uninterruptible power supplies, electronic controller for controlling air conditioning and temperature, air flow sensors, software for monitoring data center and computer room infrastructure equipment, and also containing a cooling system comprised primarily of air cooling apparatus, cooling evaporators, air conditioning units, electric fans, water cooling towers and associated electronic fan controls, air conditioning controls and power controllers, cabinets specially adapted for computer hardware equipment, and racks, curtains, doors and containment panels for use with computer systems, all sold together as a unit

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

## **SIGNATURE(S)**

### **Request for Reconsideration Signature**

Signature: /LMD/ Date: 06/08/2015

Signatory's Name: Lisa M. DuRoss

Signatory's Position: Attorney of Record, Michigan Bar Member

Signatory's Phone Number: 248-641-1286

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86196858

Internet Transmission Date: Mon Jun 08 13:05:35 EDT 2015  
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